

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15551 of Howard University, pursuant to 11 DCMR 3108.1, for a special exception under Section 211 for further processing under an approved campus plan to allow an addition to an existing dormitory in the R-5-B District at premises 345 Bryant Street, N.W. (Square 3068, Lot 30).

HEARING DATE: September 25, 1991
DECISION DATE: November 6, 1991

DISPOSITION: The Board GRANTED the application by a vote of 3-0 (Carrie L. Thornhill, and Sheri M. Pruitt to grant; John G. Parsons to grant by proxy; Charles R. Norris not voting, not having heard the case; Paula L. Jewell not voting, having recused herself).

FINAL DATE OF ORDER: November 26, 1991

MODIFICATION ORDER

The Board granted the application by its order dated November 26, 1991 subject to the condition that the height of the proposed addition shall be in compliance with the provisions of the Act to Regulate the Height of Buildings in the District of Columbia, 36 STAT. 452, June 1, 1910, as amended, which are applicable to the subject site. By letter dated April 24, 1992, counsel for the applicant filed a timely motion for modification of the plans previously approved by the Board. In support of the motion, counsel argues as follows:

1. Plans for a proposed dormitory addition were included in the Howard University campus plan approved in 1981 and 1988. The plans presented to the Board for consideration were for a building height of 67 feet. The Zoning Administrator ruled that the maximum height allowable at the site in compliance with the Height Act of 1910 would be 50 feet. As a consequence, the Board approved the application to permit construction at the lower height to ensure compliance with the Height Act of 1910.
2. Subsequent to Board approval of the application, the Zoning Commission amended the Zoning Map by its Order No. 716, dated April 6, 1992. By virtue of the Zoning Commission's order, the zoning of the subject site was changed from R-5-B to SP-2. The zoning map amendment resulted in the change in the street classification of Fourth Street abutting the subject site from a "residence" to a "commercial" street category for

purposes of the Height Act. Accordingly, the maximum allowable height for the subject site would now be 70 feet.

Section 3331.8 of the Zoning Regulations requires an applicant to carry out the proposed construction in accordance with the plans that are approved by the Board. Because of the height limitations that pertained to the site at the time the BZA's Final Order was issued, the Board was only in a position to approve plans that showed the building addition at a height of 50 feet. The new zoning on the site accords the Board the authority to approve the 67-foot building plan that was initially presented to the Board, evidenced and testified to at the public hearing.

There was no opposition to the requested modification of plans.

Upon consideration of the record in the case, the motion for modification of plans, the final order of the Board and Zoning Commission Order 716, the Board concludes that the modification as proposed is minor in nature. Although the zoning of the property has been changed subsequent to the issuance of the Board's final order, the requested modification does not alter the material facts relative to the project as originally proposed and reviewed by the Board, the ANC, government agencies, and nearby property owners. The change in zoning merely changes the status of the adjoining street which is used in determining the maximum permitted height pursuant to the Height Act of 1910, thus, removing the technical issue relative to the Board's authority to approve the plans as originally presented at the proposed height of 67 feet. There is no change in the nature of the special exception relief sought before the Board. There will be no change in the architectural treatment or the building footprint on the site. No additional zoning relief is required from the Board. The material facts relied upon by the Board in approving the application, are still relevant.

It is therefore **ORDERED** that the **MODIFICATION** of **PLANS**, as shown on Exhibit No. 34A of the record is hereby **APPROVED**. In all other respects the order of the Board dated November 26, 1991 shall remain in full force and effect.

DECISION DATE: May 20, 1992

VOTE: 3-0 (Sheri M. Pruitt and Carrie L. Thornhill to grant; John G. Parsons to grant by proxy; Paula L. Jewell not voting, having recused herself; Angel F. Clarens not voting, not having heard the case).

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BZA APPLICATION NO. 15551

As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on MAY 29 1992 a copy of the modification order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

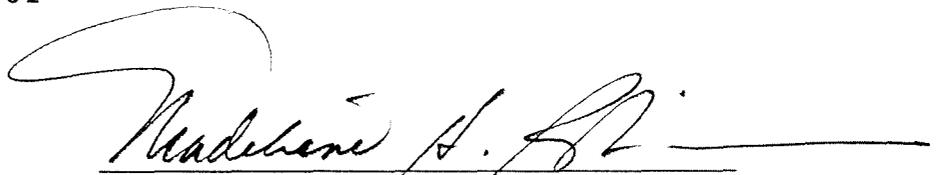
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MADELIENE H. ROBINSON
Acting Director

DATE: MAY 29 1992

15551Att/bhs